

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AUGUSTA A. JOHNSON,

Plaintiff,

v.

Case No. 12-CV-12972
Honorable Denise Page Hood

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**ORDER ACCEPTING THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION, GRANTING PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT IN PART, DENYING DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT, AND REMANDING MATTER BACK TO
THE ADMINISTRATIVE LEVEL FOR FURTHER PROCEEDINGS**

I. INTRODUCTION

Plaintiff Augusta Johnson is before the Court on an appeal of the Administrative Law Judge's finding that his impairments did not satisfy the *de minimis* standard of severity at step two of the disability analysis and, therefore, he was not entitled to disability or disability insurance benefits. On July 30, 2013, Magistrate Judge Laurie J. Michelson recommended that this Court grant in part Plaintiff's Motion for Summary Judgment, deny the Commissioner's Motion for Summary Judgment, and remand this matter back to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). For the reasons stated

below, the Court accepts the Report and Recommendation's findings of fact and conclusions of law without addition or omission. Therefore, the Plaintiff's motion for summary judgment is GRANTED IN PART and the Commissioner's motion for summary judgment is DENIED.

II. BACKGROUND

The Magistrate Judge described the factual basis of this action in great detail. The Court adopts the Report and Recommendation's findings of fact in their entirety.

III. ANALYSIS

The Court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C). The Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.* Any objections to the Report and Recommendation must be timely and specific. *See* Fed. R. Civ. P. 72(b)(2); E.D. Mich. L. R. 72.1(d); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981) ("The filing of objections provides the district court with the opportunity to consider the specific contentions of the parties and to correct any errors immediately."). "[O]nly those specific objections to the magistrate's report made to the district court will be preserved for appellate review; making some objections but

failing to raise others will not preserve all the objections a party may have.” *Smith v. Detroit Fed’n of Teachers Local 231, Am. Fed’n of Teachers, AFL-CIO*, 829 F.2d 1370, 1373 (6th Cir. 1987). Failing to file any objections waives a party’s right to further appeal, *see id.*, and relieves the Court from its duty to review the matter independently. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Neither party has filed an objection to the Magistrate Judge’s Report and Recommendation. In the absence of any timely and specific objections to the Report and Recommendation, the Court deems all objections waived and finds the Magistrate Judge’s recommendation sound and appropriate. The Report and Recommendation’s conclusions of law are accepted.

IV. CONCLUSION

Accordingly,

IT IS ORDERED that Magistrate Judge Laurie J. Michelson’s Report and Recommendation [Docket No. 19, filed July 30, 2013] is **ACCEPTED**. The Court accepts the Report and Recommendation’s findings of fact and conclusions of law in their totality.

IT IS FURTHER ORDERED that Plaintiff Augusta Johnson's Motion for Summary Judgment [Docket No. 12, filed December 7, 2012] is **GRANTED IN PART**.

IT IS FURTHER ORDERED that Commissioner's Motion for Summary Judgment [Docket No. 17, filed February 21, 2013] is **DENIED**.

IT IS FURTHER ORDERED that this action is **REMANDED** to the administrative level for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

IT IS SO ORDERED.

S/Denise Page Hood

Denise Page Hood

United States District Judge

Dated: August 30, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 30, 2013, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry

Case Manager